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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	No. 3:05-cr-00106-JWS
)	
Plaintiff,)	<u>GOVERNMENT’S</u>
)	<u>SENTENCING</u>
vs.)	<u>MEMORANDUM</u>
)	
JASON ONIS KING KIVI,)	
)	
Defendants.)	
_____)	

COMES NOW, the United States of America, by and through undersigned counsel, and submits its sentencing memorandum concerning defendant, Jason Kivi, as follows:

I. Summary of Estimated Guideline Calculations

The government has no objections to the presentence report (PSR) calculations. Therefore, defendant is facing a guideline sentencing range of 70-87 months.

II. Response to Anticipated Objections

The government anticipates that there will be no objections to the PSR itself, but because the PSR calculated Mr. Kivi's criminal history category below the level estimated by the parties in the plea agreement, there will likely be a disagreement on the appropriate level of the sentence.

III. Government's Recommendation

As contemplated by the plea agreement, the government will recommend that the court sentence Mr. Kivi to 84 months imprisonment. The Government believed that 84 months was an appropriate sentence at the time the plea agreement was signed, and continues that belief. The Guidelines calculation in the Plea Agreement was an estimate to assist the parties in determining an appropriate sentence. The Government agreed to recommend 84 months because it was the appropriate sentence, while recognizing that 84 months was the low end of the sentencing range. The Government will also recommend a supervised release period of 3 years.

On July 13, 2005, Probation and Parole Officers of the Alaska State Department of Corrections, after receiving information that Mr. Kivi was in possession of a stolen weapon, conducted a search of his residence based upon his conditions of parole. In Mr. Kivi's bedroom, they found a Jennings/Bryco Arms model M38 .380 caliber semi-automatic handgun, with serial number obliterated. In a backpack belonging to Mr. Kivi, the Parole and Probation Officers also found the reported stolen weapon, an Israeli Military Industries (IMI) "Baby Desert Eagle" .45 caliber semi-automatic handgun, serial number 33311082. Mr. Kivi gave a statement to officers after his arrest. In that statement Mr. Kivi admitted he had found the Jennings/Bryco Arms .380 caliber semiautomatic handgun, but denied knowledge of the stolen weapon.

Under the guideline calculation in the PSR, the Government's recommended sentence of 84 months is well within the range, 70-87 months. The low end of the guideline range does not sufficiently reflect Mr. Kivi's considerable history with guns, the essence of this offense. Since becoming an adult, Mr. Kivi has been the subject of 3 firearms offenses in the past 8 years, 5 of which were spent in jail. Even in jail, he was assessed an infraction for possessing a weapon or escape implement. His juvenile record also includes firearms offenses. At the time he was discovered with the firearms in this case,

he had only been out of jail for 8 months. Moreover, of the two weapons found in his possession that are the subject of the instant offense, one was reported stolen and the other had the serial number obliterated. Mr. Kivi has a continuous, consistent, and serious history of misconduct with firearms, and the sentence in this case should reflect that history. A sentence of 84 months, along with a 3 year period of supervised release, will accomplish that goal.

above.

RESPECTFULLY SUBMITTED this 30th day of June, 2006, in
Fairbanks, Alaska.

DEBORAH M. SMITH
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s/Bryan Schroder
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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2006,
a copy of the foregoing **GOVERNMENT'S**
SENTENCING MEMO, was served,
via Electronic Filing, on:

M. J. Haden,
Federal Public Defender

s/Bryan Schroder